

PAVEL POGODIN and ALEXANDER
PROKHOROV,

-against-

Defendants.

REPORT AND
RECOMMENDATION
18-CV-791 (ENV)

The Court's Order was served on Zurab Tsitsushvili by his counsel both by first class mail and email. Certificate of Service, Dkt. 100. Nevertheless, Tsitsushvili failed to appear at the hearing on January 7, 2020. *See* Minute Entry for conference held January 7, 2020, Dkt. 101. Tsitsushvili has also failed to appear through new counsel or indicate that he intends to proceed *pro se*.

Plaintiffs now move for entry of Tsitsuashvili's default. Dkt. 102. In addition, cross-claim defendant Ben-Zvi moves to dismiss the cross-claim Tsitsuashvili has pending against him. Dkt. 104. Finally, third-party defendant Givi Topchishvili seeks dismissal of the third-party complaint filed by Tsitsuashvili against her. Dkt. 103.

For the reasons stated above, I respectfully recommend that Zurab Tsitsuashvili be held in default on all claims pending against him, and that all claims asserted by him be dismissed for failure to prosecute. In addition, and without prejudice to renew if my recommendation is not adopted, the following motions are terminated as moot: plaintiffs' motion to have sanctions imposed on Tsitsuashvili and to compel him to make certain disclosures, Dkt. 85; Tsitsuashvili's motion to quash, Dkt. 86; and third-party defendant Givi Topchishvili's application for a pre-motion conference, Dkt. 94.

Any objections to the recommendation contained in this Report must be filed with the Clerk of the Court within fourteen days of the date of this Report, and in any event no later than February 3, 2020. Failure to object to this Report may waive the right to appeal the District Court's Order. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72; *Small v. Sec'y of Health & Human Servs.*, 892 F.2d 15, 16 (2d Cir. 1989).

The Clerk will mail a copy of this Report and Recommendation to Zurab Tsitsuashvili at the address indicated by his former counsel on the Certificate of Service filed as Dkt. 100.

Steven M. Gold
United States Magistrate Judge

Brooklyn, New York
January 19, 2020

U:\#Clerk Files\Decisions 2018-2019\Pogodin et al v. Cryptorion 01192020.docm